

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

FILED

MAY 01 1998

IN RE: SPECIAL SETTLEMENT AND ADR)
PROCEDURES FOR PATENT, COPYRIGHT)
OR TRADEMARK CASES) G.O. 98-3
)

ROBERT D. BERRY, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY _____

**GENERAL ORDER REGARDING SPECIAL SETTLEMENT AND ADR
PROCEDURES FOR PATENT, COPYRIGHT OR TRADEMARK CASES**

[Reference LCvR16.3 app. V, § 1.1 and Exhibit I]

For any patent, copyright or trademark case referred to a settlement or ADR procedure, the Court authorizes the following provisions:

1. Patent Cases. A party who bases a claim on a patent shall attach to its written ADR statement/summary an element-by-element analysis of the relationship between the applicable claims in the patent and the allegedly infringing product. Also the party shall describe in its written ADR statement/summary its theory or theories of damages and shall set forth all available information that supports each theory. A party who asserts a defense against the patent based on "prior art" shall attach an exhibit that identifies each known example of alleged prior art and that describes the relationship between each such example of prior art and the claims of the patent. In addition, if such party denies infringement, it shall describe the basis for such denial.

2. Copyright Cases. A party who bases a claim on copyright shall include as exhibits the copyright registration and exemplars of both the copyrighted work and the allegedly infringing work, and shall make a systematic comparison showing points of similarity. Such party shall also present whatever direct or indirect evidence

it has of copying, and shall indicate whether it intends to elect statutory or actual damages. Each party in a copyright case who is accused of infringing shall set forth in its written ADR statement/summary the dollar volume of sales of and profits from the allegedly infringing works that it and any entities for which it is legally responsible have made.

3. Trademark and Other Unfair Competition Cases. A party who bases a claim on trademark or trade dress infringement, or on other unfair competition, shall include as an exhibit its registration, if any, exemplars of both its use of its mark and use of the allegedly infringing mark, both including a description or representation of the goods or services on or in connection with which the marks are used, and any evidence it has of actual confusion. If "secondary meaning" is in issue, such a party shall also describe the nature and extent of the advertising it has done with its mark and the volume of goods it has sold under its mark. Both parties shall describe in their ADR statements/summaries how the consuming public is exposed to their respective marks and goods or services, including, if available, photographic or other demonstrative evidence. Each party in a trademark or unfair competition case who is accused of infringement shall set forth the dollar volume of sales of and profits from goods or services bearing the allegedly infringing mark.